



115(110)

GAY 3306
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

3734

In Re Application of: Lixiao Wang et al

Application No.: 08/685,338

Filed: July 23, 1996

For: HIGH COMPLIANCE, HIGH STRENGTH
CATHETER BALLOONS USEFUL FOR
TREATMENT OF GASTROINTESTINAL LESIONS

Examiner: Cris L. Rodriguez

Group Art Unit: 3306

RECEIVED

JUN 9 1998

GROUP 3300

Assistant Commissioner for Patents
Washington, D.C. 20231

Docket No.: S63.2-5902

TRANSMITTAL LETTER

1. In regard to the above-identified application, we are submitting the attached:
8 page Amendment; 1 pg. Petition for Extension of Time; 3 pg. Declaration; 8 pg. Copy of Decision
According Status Under 37 CFR 1.47(a) (including supporting papers); Check for \$110.00; VAS
Transmittal Letter; and Postcard.
2. With respect to fees:
 No additional fee is required.
 Attached is check(s) in the amount of \$110.00.
 Charge additional fee to our Deposit Account No. 22-0350.

CONDITIONAL PETITION AND FEE FOR EXTENSION OF TIME

3. This conditional petition is being filed along with the papers identified in Item 1 above and provides for the possibility that Applicant has inadvertently overlooked the need for a petition and fee for extension of time. If any extension of time for the accompanying response is required, Applicant requests that this be considered a petition therefor.
4. Please charge any additional fees or credit any over-payment associated with this communication to Deposit Account No. 22-0350.

VIDAS, ARRETT & STEINKRAUS

By:

William E. Anderson, II
Registration No. 37,766

Date: June 2, 1998

6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9131
Telephone: (612) 563-3000
Facsimile: (612) 563-3001

Certificate Under 37 CFR 1.8: I hereby certify that this Transmittal Letter and the paper(s) as described herein, are being deposited in the U.S. Postal Service, as FIRST CLASS MAIL, addressed to Assistant Commissioner for Patents, Washington D.C. 20231, on June 2, 1998.

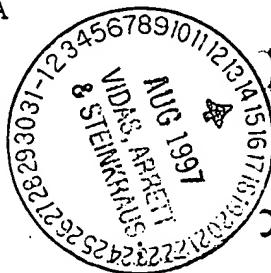
Theresa Belland



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

WCA

Walter J. Steinkraus
VIDAS ARRETT & STEINKRAUS PA
SUITE 1540
920 SECOND AVE SOUTH
MINNEAPOLIS MN 55402-4014



In re Application of

Wang and Fournier

Application No. 08/685,338

Filed: July 23, 1996

For: High Compliance, High

Strength Catheter Balloons

Useful for Treatment of

Gastrointestinal Lesions

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

RECEIVED
63.2-590 JUN 9 1998

Group 3300

This is a decision on the communication filed February 5, 1997, which has been treated as a petition under 37 CFR 1.47(a), requesting acceptance of the application without the signature of joint inventor Fournier on the declaration.

The petition is granted.

The instant application was filed on July 23, 1996 without the filing fee and an executed oath or declaration.

On September 5, 1996, a "Notice to File Missing Parts of Application Filing Date Granted" was mailed, requiring the signatures of the inventors on the oath or declaration and a surcharge for its late submission.

In response, on February 5, 1997, a Declaration signed by joint inventor Wang, a surcharge, the filing fee, the additional claim fee, the petition fee, and a declaration of facts of Luke Dohmen (including exhibits) were filed. Furthermore, a petition for a four month extension of time and the required fee also filed.

On February 25, 1997, a supplemental response was filed and included a copy of a letter from joint inventor Fournier.

Petitioner provides proof that the non-signing inventor has refused to execute the oath or declaration and sets forth the last known address of the inventors.

The above-identified application and papers have been

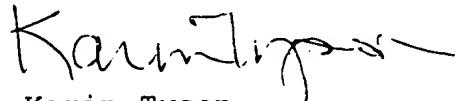
reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47 status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to non-signing inventor Fournier at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

The power of attorney, filed February 5, 1997, is defective since it does not comply with 37 CFR 3.73(b) since the evidentiary documents supporting chain of title in the assignee have not been alleged to have been reviewed and Mr. Rissman did not state that to the best of his information and belief, title is in the assignee. Since it is common in applications filed under 37 CFR 1.47 for there not to be an assignment from the non-signing inventor to the "assignee," it is acceptable for the assignee to show assignment of the entire interest of the Rule 47(a) applicant, Mr. Wang. See Manual of Patent Examining Procedure, Section 324 for information regarding 37 CFR 3.73(b).

After mailing of this decision, the application will be forwarded to Group 1300 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (703)306-3159.



Karin Tyson
Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Offic
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Donald J. Fournier
1429 E. Bellevue Way, NE
Bellevue Washington 98004

In re Application of
Wang and Fournier
Application No. 08/685,338
Filed: July 23, 1996
For: High Compliance, High Strength Catheter Balloons Useful
for Treatment of Gastrointestinal Lesions



COPY MAILED

AUG 12 1997

OFFICE OF PRACTITIONERS
OF PATENTS

Dear Mr. Fournier:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (703)305-9285.

Karin Tyson
Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

Walter J. Steinkraus
VIDAS ARRETT & STEINKRAUS PA
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**Added Pages To Declaration For Signature By One Joint Inventor
On Behalf Of Omitted Inventor Who Refuses To Sign**

Attorney's Docket No.: S63.2-5902

1. I am an above named joint inventor and have signed this declaration on my own behalf and also sign this declaration under 37 CFR 1.47(a) on behalf of the omitted joint inventor Donald J. Fournier who refuses to sign.
2. The country of citizenship of the omitted joint inventor Donald J. Fournier is United States.
3. The last known address of the omitted joint inventor Donald J. Fournier is 1429 E. Bellevue Way, N.E., Bellevue, Washington 98004.
4. Accompanying this declaration is:
 - a) a Declaration of Facts in Support of Filing on Behalf of Omitted Inventor, and
 - b) the petition fee of \$130.00 required by 37 CFR 1.17(h).

Lixiao Wang

Date: 2/4/97

A handwritten signature in black ink, appearing to read "Lixiao Wang".

(Signature of Lixiao Wang on behalf of
Donald J. Fournier)

EXPRESS MAIL NO.
EM 131 143 069 115

**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor(s): Lixiao Wang, ET AL
 Title: HIGH COMPLIANCE, HIGH STRENGTH
 CATHETER BALLOONS USEFUL FOR
 TREATMENT OF GASTROINTESTINAL
 LESIONS
 Filed: July 23, 1996
 Ser. No. 08/685,338

Declaration Of Facts In Support Of Filing On Behalf Of Omitted Inventor
 (37 CFR 1.47(a))

Attorney's Docket No. S63.2-5902

This declaration is made as to the exact facts which are relied upon to establish the diligent effort to secure the execution of the declaration by the omitted inventor for the above identified patent application before deposit thereof in the Patent and Trademark Office.

This declaration is being made by the available person having first-hand knowledge of the facts recited herein.

Identification Of Person Making This Declaration Of Facts

Name of declarant: Luke R. Dohmen

Address of declarant: SciMed Life Systems, Inc.
 One SciMed Place
 Maple Grove, MN 55311

Title of declarant: Senior Patent Attorney

Last Known Address(es) Of The Omitted Inventor

Full name of omitted Inventor: Donald J. Fournier

Last Known Address: 1429 E. Bellevue Way, N.E., Bellevue, Washington 98004
 or P.O. Box 283, Bellevue, WA 98009-0283

Details Of Efforts To Reach Omitted Inventor

1. Donald J. Fournier was an employee of Boston Scientific Corporation, during the period in which he jointly invented subject matter claimed in the above identified application.
2. This application was filed as a U.S. application on July 23, 1996.
3. Donald J. Fournier is no longer an employee of Boston Scientific Corporation.
4. The above identified application received a Notification Of Missing Requirements requiring the declaration of the inventors by September 5, 1996, or by February 5, 1997 with a 4 month petition for extension pursuant to 37 CFR 1.136(a).
5. On December 5, 1996 I mailed a copy of U.S. Appln. 08/685,338 to Donald J. Fournier and instructed him to review the application and sign and date the Declaration and Assignment which were previously sent to him on October 31, 1996 and to return the documents in the self-addressed envelope provided. A copy of this letter is attached to this declaration as exhibit A.
6. On January 6, 1997, Donald J. Fournier mailed a letter to me indicating that he had received the application, declaration and assignment. Mr. Fournier also indicated that he refused to review, sign and return the forwarded documents until the Company forwarded \$2,500 to him for review of the documents by him and by separate legal counsel. A copy of this letter is attached to this declaration as exhibit B.
7. On January 30, 1997, I attempted to telephone Donald J. Fournier to discuss the situation using the telephone number which is listed with directory service under the return address from his letter of January 6, 1997, but the number had been disconnected.
8. On January 31, 1997, I sent Mr. Fournier a letter by Express Mail informing him that his request for \$2,500 was too high and that we would be open to negotiating a more reasonable fee for his time. I requested that he contact me to discuss the situation. A copy of this letter is attached to this declaration as exhibit C.
9. As of February 4, the day before the response to the above mentioned Notice of Missing Parts is due with extensions, we have not received a response from Mr. Fournier.
10. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: Feb 4, 97



Luke Dohmen

SCIMED®
Boston Scientific Corporation

SCIMED Life Systems, Inc.
One SCIMED Place
Maple Grove, MN 55311-1566
612-494-1700



December 5, 1996

Donald Fournier
1429 East Bellevue Way, N.E.
Bellevue, WA 98004

RE: HIGH COMPLIANCE, HIGH STRENGTH CATHETER BALLOONS
USEFUL FOR TREATMENT OF GASTROINTESTINAL LESIONS

Dear Donald:

Enclosed is a copy of the "High Compliance, High Strength Catheter Balloons Useful for Treatment of Gastrointestinal Lesions" patent application as filed. Upon completion of review of this application please sign and date the Declaration and Assignment which have been previously sent to you in the space provided. Also please initial and date the address change on the declaration and assignment. Both documents should be returned to me in the enclosed envelope.

You should know that Boston Scientific Corporation considers this confidential information.

If you have any questions regarding the enclosed application, please contact me directly at 612-494-2422.

Sincerely,

Luke Dohmen
SCIMED Life Systems, Inc.
Boston Scientific Corporation

LD:dl
Enclosures

EXPRESS MAIL NO.
EM 131 143 069 US

EXHIBIT A, PAGE 1 OF 1

Donald J. Fournier
PO Box 283
Bellevue, WA 98009-0283

JAN 21

January 6, 1997

Luke Dohman
SCIMED Life Systems, Inc.
Boston Scientific Corporation
One SCIMED Place
Maple Grove, MN 55311-1566

RE: HIGH COMPLIANCE, HIGH STRENGTH CATHETER BALLOONS USEFUL FOR
TREATMENT OF GASTROINTESTINAL LESIONS

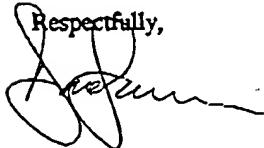
Dear Luke:

I have received your letter dated 12/5/96 along with the patent application for "High Compliance, High Strength Catheter Balloons Useful for Treatment of Gastrointestinal Lesions". This is in addition to the declaration and assignment for same forwarded by P. Danaher on 10/31/96.

I estimate the costs incurred in honoring your request to be \$2,500.00. This includes my review of all aforementioned documentation and separate legal review of same. Barring any revisions, I expect this review can be completed and all documents executed and returned within 10 days of receipt of payment. Alternatively, at your request all documentation will be returned as received in the envelopes which you have provided. I will await your advise.

I believe the device as disclosed in the application will offer a significant improvement over the current modalities for treating gastrointestinal lesions and am pleased that I was able to contribute to BSC's success in this regard. Best wishes for you and BSC's continued success.

Respectfully,



EXPRESS MAIL NO.
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EXHIBIT B, PAGE 1 OF 1

SCIMED®
Boston Scientific Corporation

SCIMED Life Systems, Inc.
One SCIMED Place
Maple Grove, MN 55311-1566
612-494-1700

EM274854982US

January 31, 1997

VIA EXPRESS MAIL

Donald Fournier
Post Office Box 283
Bellevue, WA 98009-0283

RE: HIGH COMPLIANCE, HIGH STRENGTH CATHETER BALLOONS
USEFUL FOR TREATMENT OF GASTROINTESTINAL LESIONS

Dear Donald:

I have received your letter dated January 6, 1997, regarding High Compliance, High Strength Catheter Balloons Useful for Treatment of Gastrointestinal Lesions. In that letter you requested \$2,500 in order for you to sign the documents that had been sent to you. While I would consider paying you a reasonable fee for the time spent reviewing and signing these documents, I feel that \$2,500 is too high.

If possible, I would like to discuss this with you. I can be reached at 1-800-553-5878, extension 2422 or directly at 612-494-2422. If I am not available, feel free to contact my secretary Diane Lindquist at extension 2608.

Thank you for your attention to this matter and I believe this is something we can work out.

Sincerely,

Luke Dohmen dl

Luke Dohmen
SCIMED Life Systems, Inc.
Boston Scientific Corporation

LD:dl

EXPRESS MAIL NO.

EM 131143 069 US

EXHIBIT C, PAGE 1 OF 1